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ABSTRACT

Presented in question and answer format is information on Public Law 94-142 (Education for All Handicapped Children Act) and Section 504 (the basic civil rights provision with respect to terminating discrimination against handicapped citizens). Questions are divided into sections which cover general information, rights and protections, fiscal information, and management. Also provided is a P.L. 94-142 timetable for service and funding. (SBH)

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Public Law 94-142 and Section 504--Understanding What They Are and Are Not

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What is Public Law 94-142?

Public Law (P.L.) 94-142, the Education for All Handicapped Children Act, is legislation passed by the United States Congress and signed into law by President Gerald R. Ford on November 29, 1975. The "94" indicates that this law was passed by the 94th Congress. The "142" indicates that this law was the 142nd law passed by the 94th Congress to be signed into law by the President.

What are the purposes of P.L. 94-142?

P.L. 94-142 can be said to have four major purposes:

- Guarantee the availability of special education programing to handicapped children and youth who require it.
- Assure fairness and appropriateness in decision making about providing special education to handicapped children and youth.
- Establish clear management and auditing requirements and procedures regarding special education at all levels of government.
- Financially assist the efforts of state and local government through the use of federal funds. (Refer to Section 3 of the Act.)

What is Section 504?

Section 504 is the basic civil rights provision with respect to terminating discrimination against America's handicapped citizens. Section 504 was enacted through the legislative vehicle of P.L. 93-112, the Vocational Rehabilitation Act Amendments of 1973. Although it is brief in actual language, its implications are far reaching. The statute reads:

> No otherwise qualified handicapped individual in the United State 7(6) shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

To whom do P.L. 94-142 and Section 504 apply?

P.L. 94-142 applies to all handicapped children who require special education and related services, ages 3 to 21 inclusive. Section 504 applies to all handicapped Americans regardless of age. Section 504, therefore, applies to all handicapped children aged 3 to 21 with respect to their public education both from the standpoint of the guarantee of an appropriate special education and from the standpoint of sheer regular program accessibility. Close coordination has therefore been maintained between P.L. 94-142 provisions and regulations and the Section 504 regulations. (Refer to Section 611 of P.L. 94-142 and the background statement of the Section 504 regulation.)

What is the relationship of P.L. 94-142 to the older federal Education of the Handicapped Act?

P.L. 94-142 is a complete revision of *only* Part B of the Education of the Handicapped Act (EHA). Part B was formerly that portion of EHA addressing the basic state grant program. The other components of the Act (Parts A through F) remain substantially unchanged and continue in operation. Parenthetically, all programs under the aegis of the EHA, including the P.L. 94-142 revision of Part B, are administered through the Bureau of Education for the Handicapped under the US Office of Education.

Was there a forerunner to P.L. 94-142?

Many of the major provisions of P.L. 94-142, such as the guarantee of due process procedures and the assurance of education in the least restrictive environment, were required in an earlier federal law, P.L. 93-380, the Education Amendments of 1974 (enacted August 21, 1974). P.L. 94-142 was enacted approximately one year and three months later, on November 29, 1975.

How are handicapped children defined for purposes of this Act?

Handicapped children are defined by the Act as

> mentally retarded, hard of hearing, deaf, orthopedically impaired, other health impaired, speech impaired, visually handicapped, seriously emotionally disturbed, or children with specific learning disabilities who, by reason thereof, require special education and related services.

This definition establishes a two pronged criterion for determining child eligibility under the Act. The first is whether the child actually has one or more of the disabilities listed in the above definition. The second is whether the child requires special education and related services. Not all children who have a disability require special education; many are able to and should attend school without any program modification. (Refer to Section 4 of the Act.)

If a child has one or more of the disabilities listed in the preceding definition and also requires special education and related services, how does P.L. 94-142 define such special education?

Special education is defined in P.L. 94-142 as

> specially designed instruction, at no cost to parents or guardians, to meet the unique needs of a handicapped child, including classroom instruction, instruction in physical education, home instruction, and instruction in hospitals and institutions.

The key phrase in the above definition is "specially designed instruction . . . to meet the unique needs of a handicapped child." Reemphasized, special education, according to statutory definition, is defined as being "special" and involving instruction that is designed and directed to meet the unique needs of a handicapped child. For many children, therefore, special education will not be the totality of their education. Furthermore, this definition clearly implies that special education proceeds from the basic goals and expected outcomes of general education. As such, intervention with a child does not occur because he or she is mentally retarded but because the child has a unique educational need that requires specially designed instruction. (Refer to Section 4(a)(16) of the Act.)

How are related services defined in P.L. 94-142?

Equally important to understand is the concept of related services which are defined in the Act as

> transportation, and such developmental, corrective, and other supportive services (including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, and medical and counseling services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a handicapped child to benefit from special education, and includes the early identification and assessment of handicapping conditions in children.

The key phrase here is "as required to assist the handicapped child to benefit from special education." This leads to a clear progression: a child is handicapped because he or she requires special education and related services; special education is the specially designed instruction required to meet the child's unique needs; and related services are those additional services needed for the child to benefit from special educational instruction. (Refer to Section 4(a)(17) of the Act.)

Do state and local education agencies by themselves have to pay for all related services?

No. Numerous other public agencies can and should assist in paying for related services. Simply because education agencies have the responsibility for making an education available to all handicapped children does not mean that the education agencies must bear the total cost for special education and related services.

RIGHTS AND PROTECTIONS

What is the fundamental requirement of P.L. 94-142, from which all other requirements of this Act stem?

P.L. 94-142 requires that every state and its localities, if they are to continue to receive funds under this Act, make available a free appropriate public education for all handicapped children, aged 3 to 18, by the beginning of the school year, September 1, 1978. It further mandates the availability of such education to all children, aged 3 to 21, by September 1, 1980. (Refer to Section 3(c) of the Act.)

What about preschool and young adults under P.L. 94-142?

For children in the 3 to 5 and 18 to 21 age range, however, this mandate does not apply if the requirement is inconsistent with state law or practice, or any court decree. Refer to regulations for further expatiation of this provision and for a description of the documentation which must be submitted by the state to the US Commissioner when such an exception is sought. (Refer to Section 612 (2)(b) of the Act.)

What do the Section 504 regulations say with respect to the guarantee of a free appropriate public education?

Section 504 makes essentially the same requirement. However, the 504 regulation says " . . . shall provide . . . ." P.L. 94-142 says " . . . a free appropriate public education *will be available* . . . ."

The 504 regulation does not refer to specific age groups per se. Instead, it refers to "public elementary and secondary education," and, therefore, the traditional school age population. With respect to that school age population, the 504 regulation accedes to the September 1, 1978, date of P.L. 94-142 as the final and absolute deadline for the provision of a free, appropriate public education. However, the Section 504 regulation also precedes that requirement with the phrase " . . . *at the earliest practicable time* but in no event later than September 1, 1978." It is most important to note that, regardless of the date when an appropriate education must be provided under the 504 regulation, outright exclusion of handicapped children from *any* education program is prohibited as of the date of enactment of the 504 regulation, namely June 1, 1977. (Refer to §84.33(d) of the 504 regulation.)

What is required with respect to preschool and young adults under Section 504?

The 504 regulation appears simply to say that preschool and adult education programs will not discriminate on the basis of handicap, and further that such program accessibility will take effect immediately. On the other hand, P.L. 94-142, as previously noted, explicitly states that there shall be available a free, appropriate public education for children 3 through 5 and youth 18 through 21 unless such requirement is inconsistent with state law or practice, or the order of any court. Again, P.L. 94-142 does not require such availability until September 1, 1978. (Refer to §84.38 of the 504 regulation.)

Since Section 504 and P.L. 94-142 are making, in essence, the same fundamental requirement of a free, appropriate public education, are federal monies authorized under Section 504 as they are under P.L. 94-142?

No. Section 504 is a civil rights statute, like Title VI of the Civil Rights Act of 1965 (race) and Title IX of the Education Amendments of 1972 (sex) and, thus, contains no specific authorizations for funds.

Must there be compliance with the fundamental requirement of P.L. 94-142 (as reiterated in Section 504 regulations) if P.L. 94-142 is not "fully funded"?

It is most important to note that compliance with this baseline guarantee of the availability of a free, appropriate public education is in no way dependent on whether this Act receives appropriations at the top authorized ceiling, or, in other words, is "fully funded." If a state accepts the money under this Act, it must comply with the aforementioned stipulation (regardless of the amount of the actual appropriation). If a state chooses not to participate under P.L. 94-142 then, of course, essentially the same compliance will still be required under Section 504.

What does "free" education, as required in both P.L. 94-142 and Section 504, mean?

"Free" means the provision of education and related services at no cost to the handicapped person, or to his or her parents or guardian, except for those largely incidental

fees that are imposed on nonhandicapped persons or their parents or guardian.

What if a public agency placement is made in a public or private residential program?

Such a program placement, including nonmedical care and room and board, shall be provided at no cost to the person or his or her parents or guardian. (Refer to §84.33(c)(3) of the 504 regulation and §121a.302 of the P.L. 94-142 regulation.)

Does "free" mean that no private funds can be utilized?

No. Private funds are not prohibited. To reiterate: there must be no cost to the handicapped person or to his or her parents or guardian.

What does "appropriate" education mean?

"Appropriate" is not defined as such, but rather receives its definition for each child through the mechanism of the individualized written education program (IEP) as required by P.L. 94-142. Therefore, what is agreed to by all parties becomes in fact the "appropriate" educational program for each particular child.

What are the basic concepts of the individualized education program?

The term "individualized education program (IEP)" conveys important concepts that need to be specified. First, "individualized" means that the IEP must be addressed to the educational needs of a single child rather than a class or group of children. Second, "education" means that the IEP is limited to those elements of the child's education that are more specifically special education and related services as defined by the Act. Third, "program" means that the IEP is a statement of what will actually be provided to the child, as distinct from a plan that provides guidelines from which a program must subsequently be developed.

What are the basic components of the IEP?

The Act contains a specific definition describing the components of an IEP as:

> a written statement for each handicapped child developed in any meeting by a representative of the local education agency or an intermediate educational unit who shall be qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of handicapped children, the teacher, the parents or guardian of such child, and whenever appropriate, such child, which statement shall include (A) a statement of the present levels of educational performance of such child, (B) a statement of annual goals, including short-term instructional objectives, (C) a statement of the specific educational anticipated duration of such services, and appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved. (Refer to Section 4(a)(19) of the Act.)

May others be involved in the development of the IEP?

Good practice suggests that others frequently be involved. However, the law requires only four persons be involved (i.e., the parents, or guardians, the teacher or teachers of the child, a representative of the local education agency or intermediate unit who is qualified to provide or supervise the provision of special education, and whenever appropriate, the child). If an additional service person will be providing related services, it makes sense that he or she be as involved as the teacher. Good practice further suggests that parents often want to bring an additional person familiar with the child to the meeting. And finally, the P.L. 94-142 regulations require that a member of the assessment team or someone familiar with the procedures and results of the assessment must participate in any IEP meetings conducted for handicapped children who have been evaluated for the first time.

Who must be provided an IEP?

Each state and local educational agency shall insure that an IEP is provided for each handicapped child who is receiving or will receive special education, regardless of what institution or agency provides or will provide special education to the child.

1. The state educational agency shall insure that each local educational agency establishes and implements an IEP for each handicapped child.
2. The state educational agency shall require each public agency that provides special education or related services to a handicapped child to establish policies and procedures for developing, implementing, reviewing, maintaining, and evaluating an IEP for that child.

What must local and intermediate education agencies do regarding IEP's?

- Each local educational agency shall develop, or revise, whichever is appropriate, an individualized education program for every handicapped child at the beginning of the school year, and review and if appropriate, revise its provisions periodically, but not less than annually.
- Each local educational agency is responsible for initiating and conducting meetings for developing, reviewing, and revising a child's individualized education program.
- For a handicapped child who is receiving special education, a meeting must be held early enough so that the individualized education program is developed (or revised, as appropriate) by the beginning of the next school year.
- For a handicapped child who is not receiving special education, a meeting must be held within thirty days of a determination that the child is handicapped, or that the child will receive special education. (Refer to Section 614(a)(5) of the Act.)

Do the IEP requirements apply to children in private schools and facilities?

Yes. The state educational agency shall insure that an individualized education program is developed, maintained, and evaluated for each child placed in a private school by a public agency. Moreover, an IEP must also be

maintained for each handicapped child who is enrolled in a parochial or other private school when such child receives special education and related services *from a public agency*. (Refer to §121a.341 of the P.L. 94-142 regulations.)

The agency which places or refers a child shall further insure that provision is made for a representative from the private school (which may be the child's teacher) to participate in each meeting. If the private school representative cannot attend a meeting, the agency shall use other methods to insure participation by the private school, including individual or conference telephone calls. (Refer to Section 613(a)(4)(B) of the Act.)

Is the IEP an instructional plan?

No. The IEP is a management tool that is designed to assure that, when a child requires special education, the special education designed for that child is appropriate to his or her special learning needs, and that the special education designed is actually delivered and monitored. An instructional plan reflects good educational practice by outlining the specifics necessary to specially intervene in instruction. Documenting instructional plans, however, is *not* mandated as part of the IEP requirements.

What procedures should education agencies follow to involve parents in the development of their child's IEP?

- Each local educational agency shall take steps to insure that one or both of the parents of the handicapped child are present at each meeting or are afforded the opportunity to participate, including scheduling the meeting at a mutually agreed on time and place.
- If neither parent can attend, the local education agency shall use other methods to insure parent participation, including individual or conference telephone calls.
- A meeting may be conducted without a parent in attendance if the local education agency is unable to convince the parents that they should attend. In this case the local education agency must have a record of its attempts to arrange a mutually agreed on time and place such as:
  - —Detailed records of telephone calls made or attempted and the results of those calls;
  - —Copies of correspondence sent to the parents and any responses received;
  - —Detailed records of visits made to the parents' home or place of employment and the results of those visits.
- The local education agency shall take whatever action is necessary to insure that the parent understands the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

When must handicapped children be guaranteed the IEP?

For all handicapped children in the state, regardless of the public agency(s) providing special education and related services, an IEP must be provided at the beginning of school year 1977-1978. The regulations interpret the law by specifying that all children must have an IEP by October 1, 1977. Moreover, for a handicapped child who is initially evaluated after October 1, 1977, the IEP meeting required under the law must be held within thirty days of a determination that he or she requires special education.

What does Section 504 say with respect to the IEP?

As previously discussed, P.L. 94-142 requires the development and maintenance of individualized written education programs for all children. The 504 regulation cites the IEP as "one means" of meeting the standard of a free appropriate public education. (Refer to §84.33(b)(2) of the 504 regulation.)

For further information regarding individualized education programs, the reader is referred to the following resource: *A Primer on Individualized Education Programs for Handicapped Children* by Scottie Torres, 1977, 60 pp. $4.95. Available from the Foundation for Exceptional Children, 1920 Association Dr., Reston, VA 22091.

P.L. 94-142 requires that handicapped children receive a free appropriate public education in the least restrictive educational environment. What does this mean?

It is critical to note what this provision is not:

- It is not a provision for mainstreaming. In fact, the word is never used.
- It does not mandate that all handicapped children will be educated in the regular classroom.
- It does not abolish any particular educational environment, for instance, educational programing in a residential setting.

It is equally critical to note what this provision *does* mandate:

- Education with nonhandicapped children will be the governing objective "to the maximum extent appropriate."
- The IEP will be the management tool toward achievement of the maximum least restrictive environment and therefore shall be applied within the framework of meeting the "unique needs" of each child.
- The IEP document(s) must clearly "show cause" if and when a child is moved from the least restrictive to a more restrictive environment. The statute states that the following component must be included in the written statement accompanying the IEP " . . . and the extent to which such child will be able to participate in regular educational programs . . ." (Refer to Section 612(5)(B) of the Act.)

Correspondingly, what does the Section 504 regulation say with respect to least restrictive educational environment?

The language of the 504 regulation is, in most important respects, nearly identical to the least restrictive statute in P.L. 94-142. There remains one notable distinction, however. The 504 regulation would seem to consider the "nearest placement to home" as an additional determinant of instructional placement in the least restrictive environment. (Refer to §84.34(a) of the 504 regulation.)

Under P.L. 94-142, what happens if there is a failure to agree with respect to what constitutes an appropriate education for a particular child?

States must guarantee procedural safeguard mechanisms for children and their parents or guardians.

Those provisions of previously existing law (P.L. 93-380, the Education Amendments of 1974) toward the guarantee of due process rights are further refined in P.L. 94-142, and their scope is substantially enlarged.

Basically, the state education agency must guarantee the maintenance of full due process procedures for all handicapped children within the state and their parents or guardian with respect to all matters of identification, evaluation, and educational placement whether it be the initiation or change of such placement, or the refusal to initiate or change. Interested individuals are strongly urged to read Section 615 of the Act ("Procedural Safeguards") in its entirety, and are urged to read Subpart E, §121a.500 to §121a.534 of the P.L. 94-142 regulations.

It should be noted that, when the parents or guardian of a child are not known, are unavailable, or when the child is a legal ward of the state, the state education agency, local education agency or intermediate education agency (as appropriate) must assign an individual to act as a *surrogate* for the child in all due process proceedings. Moreover, such assigned individual may not be an employee of the state educational agency, local educational agency, or intermediate educational unit involved in the education or care of the particular child. (Refer to Section 615 of the Act and §121a.514 of the P.L. 94-142 regulation.)

Does the Section 504 regulation also require the maintenance of a procedural safeguards mechanism?

Yes. However, though most of the major principles of due process embodied in P.L. 94-142 are clearly present in the 504 regulation, *all* of the stipulations of P.L. 94-142 are treated only as "one means" of due process compliance under Section 504. (Refer to §84.36 of the 504 regulation.)

For further information regarding procedural safeguards, the reader is referred to the following resources available from The Council for Exceptional Children:

- *A Primer on Due Process: Education Decisions for Handicapped Children* by Alan R. Abeson, Nancy Bolick, and Jayne Hass, 1975, 72 pp., Stock No. 104, $4.95.
- *Procedural Safeguards P.L. 94-142 - A Guide for Schools and Parents*, produced by The Council for Exceptional Children in conjunction with the Children's Television Workshop (multimedia package), 1977, Stock No. 167, $90.00.

What does P.L. 94-142 say with respect to assessment of children?

P.L. 94-142 carries a provision that seeks to guarantee against assessment with respect to the question of a handicapping condition when such assessment procedures are racially or culturally discriminatory. The statute does not provide a comprehensive procedure of remedy with respect to potential discrimination, but does make two clear and important stipulations in the direction of remedy:

- "Such materials and procedures shall be provided in the child's native language or mode of communication . . . ."
- ". . . no single procedure shall be the sole criterion for determining an appropriate educational program of a child."

The provision, therefore, in effect orders that assessment procedures be multifactored, multisourced, and carried out by qualified personnel. Moreover, the P.L. 94-142 regulations require assessments at least every 3 years. The regulations governing this provision should therefore be carefully reviewed, and may be found in Subpart E, §121a.530 to §121a.534. (Refer to Section 612(5)(C) of the Act.)

What does the Section 504 regulation say with respect to the assessment of children?

The objectives of Section 504 and P.L. 94-142 are identical on this matter, and the regulatory language for both statutes are also identical. (Refer to §84.35 of the 504 regulation.)

What does P.L. 94-142 say with respect to the confidentiality of data and information?

P.L. 94-142 contains a provision that addresses the question of abuses and potential abuses in school-system record keeping with respect to handicapped children and their parents. P.L. 94-142, as did the prior P.L. 93-380, simply orders a remedy and does not go beyond. The governing statutes for this provision are contained in the larger Family Educational Rights and Privacy Act (often referred to as the "Buckley Amendments" after the author, former US Senator James Buckley of New York). That measure sets forth both the access rights and privacy rights with respect to personal school records for all of the nation's children and youth, and their parents.

Thus, readers should study the Act itself (contained in P.L. 93-380), the accompanying regulations for the "Buckley Amendments," and the addendums to those provisions contained in the regulations for P.L. 94-142. (Refer to Subpart E, §121a.560 to §121a.576 of the P.L. 94-142 regulation.)

Do handicapped children in private schools enjoy all of the rights and protections of P.L. 94-142?

- When such children are placed in a private school by a public agency, they must be afforded all of the rights and protections of P.L. 94-142.
- When they are not so placed by a public agency (e.g. parent placement in a parochial school) they are not afforded these rights and protections. However, P.L. 94-142 supported programs must be so designed that handicapped children thus placed in private schools can participate if the parents of those children so desire. (Refer to Subpart D of the P.L. 94-142 regulations and refer to Section 613(a)(4) of the Act.)

What then, in summary, are the rights and protections of P.L. 94-142 (which, for the most part are also affirmed in Section 504) that must be guaranteed?

P.L. 94-142 makes a number of critical stipulations that must be adhered to by *both* the state and its local and intermediate educational agencies:

- Assurance of the availability of a free, appropriate public education for all handicapped children, such guarantee of availability no later than certain specified dates.
- Assurance of the maintenance of an individualized education program for all handicapped children.
- A guarantee of complete due process procedures.
- The assurance of regular parent or guardian consultation.
- Assurance of special education being provided to all handicapped children in the "least restrictive" environment.
- Assurance of nondiscriminatory testing and evaluation.
- A guarantee of policies and procedures to protect the confidentiality of data and information.
- Assurance of an effective policy guaranteeing the right of all handicapped children to a free, appropriate public education, at no cost to parents or guardian.
- Assurance of a surrogate to act for any child when parents or guardians are either unknown or unavailable or when such child is a legal ward of the state.

It is most important to observe that an official, written document containing all of these assurances is now required (in the form of an application) of *every* school district receiving its federal entitlement under P.L. 94-142. Correspondingly, such a public document also exists at the state level in the form of the annual state plan which must be submitted to the US Commissioner.

The rights and protections of P.L. 94-142 and Section 504 apply to all handicapped children. What does this mean?

It must be reemphasized that these rights and protections do not apply only to children receiving their education within local school systems. These rights and protections apply to all handicapped children receiving an education under the auspices of any public agency including those children placed in residential settings.

For further information with respect to rights and protections, the reader is referred to the following resource available from The Council for Exceptional Children: *Public Policy and the Education of Exceptional Children* edited by Frederick J. Weintraub, Alan R. Abeson, Joseph Ballard, and Martin L. LaVor, 1976, 288 pp., Stock No. 123, $13.95.

FISCAL

Will the federal government contribute to paying the costs of achieving a free appropriate public education for all handicapped children?

P.L. 94-142 authorizes a payment formula based on a gradually escalating percentage of the national average expenditure per public school child times the number of handicapped children receiving publicly financed special education and related services in each state in the Nation. That percentage will escalate on a yearly basis until 1982 when it will become a permanent 40% for that year and all subsequent years.

Formula Scale

Fiscal 1978	5%
Fiscal 1979	10%
Fiscal 1980	20%
Fiscal 1981	30%
Fiscal 1982	40%

It should be carefully noted that such a formula carries an inflation factor, i.e. the actual money figure fluctuates with inflationary-deflationary adjustments in the national average per pupil expenditure. (Refer to Section 611(a)(1) of the Act.)

The formula may be simply expressed in the following way:

NAE	X	___ %	X	NHC	=	SF
National average expenditure per pupil				Number of handicapped children		Amount of federal funds allocated to the state for the year

Can a handicapped child only receiving a "related service" be covered by and counted under P.L. 94-142?

If one studies the definitions of handicapped children, special education, and related services as presented in this Act carefully, it will be seen that no such situation can arise. The definition of "related services" is completely dependent for its existence on the definition of "special education," since a related service must be necessary for a child to benefit from special education. Therefore, if a child does not need special education, there can be no "related services," and the child (because not "handicapped") is not covered under the Act. (Refer to P.L. 94-142 regulations, §121a.14.)

Is this formula a true entitlement?

No. As noted previously, regardless of the dollars generated under this formula, they are potential dollars only. The Congress must in fact appropriate within the authorization ceiling generated.

May a given state, deeming the dollars appropriated to be too low and the requirements of the Act too high, simply refuse to participate under P.L. 94-142?

Yes, but the state will then be faced with meeting the generally identical requirements of Section 504 (P.L. 93-112), which provision carries no fiscal support mechanism (as previously noted).

Are the dollars made available in the basic program of P.L. 94-142 practically the only federal dollars provided for the education of handicapped children?

No. Handicapped children enjoy educational support through numerous other federal programs, though P.L. 94-142 represents the largest single fiscal commitment.

Some examples of these other federal programs would be:

- Other programs authorized by the older Education of the Handicapped Act (EHA, Parts C through F) which are administered by the US Bureau of Education for the Handicapped, such as the early childhood model programs and the deaf-blind support centers.
- The program of supplemental educational support for handicapped children in state operated or supported facilities, known commonly as the "89-313" program.
- The special setaside of money for handicapped youth in the federal vocational education program.
- The special setaside of the enrollment opportunities for handicapped children in the Headstart program.

One also must bear in mind that there are numerous federal education programs not specifically earmarked for handicapped children but which handicapped children, along with all other children, enjoy the benefits of, directly or indirectly. Examples of these federal programs would be:

- Title I of the federal Elementary and Secondary Education Act, supplemental education support with an economic disadvantage target base.
- The federal impact aid program.
- The library services and construction programs.

Are school systems restricted to using the combination of federal, state, and local education dollars only in meeting the special education and related services requirements of P.L. 94-142?

No. Numerous other public and private sources at all levels of government can and should be tapped—especially in the provision of related services.

What are the currently estimated dollar totals generated by this formula?

As this document went to press, it was estimated that a minimum of 4 million children served would be counted in school year 1977-1978, thus generating on the 10% factor a minimum ceiling of $600 million for fiscal 1979 (school year 1978-1979). Furthermore, best estimates indicate a billion dollar plus ceiling for fiscal 1980 (school year 1979-1980), on the 20% factor.

Is there a limit on the number of children who may be counted for purposes of the federal funding formula?

P.L. 94-142 addresses the potential threat of "over-counting" children as handicapped in order to generate the largest possible federal allocation. The measure requires that the total number of children counted should not be greater than that number which equals 12% of the total school age population of the state between the ages of 5 and 17, inclusive. It must be emphasized that this limitation relates to the federal entitlement only, and in no way places a limitation on the number of children assessed as handicapped by the states and their localities for their own purposes. Furthermore, this limitation has no relation to the mandates for serving all handicapped children contained in this Act. (Refer to Section 611(a)(5)(A)(1) of the Act.)

Does this mean that one can only count children served when they are between the ages of 5 and 17?

No. One may count all children served aged 3 to 21, inclusive. However, the total thus counted may not be a number greater than that number which equals 12% of the school age population aged 5 to 17.

To whom does the limitation apply?

The limitation applies only to each state in the determination of its entitlement. The law does not require that this limitation apply to the instate distribution, in other words, does not require the counting limitation for the local school districts participating under the Act.

Is there a limitation on the number of children with specific learning disabilities who may be counted?

The law provides that not more than one sixth of the 12% of school age children aged 5 to 17, inclusive, who may be counted as handicapped children served may be children with specific learning disabilities.

However, there exists a mechanism in the law that could allow for removal of this limitation on the count of children with specific learning disabilities. The US Commissioner of Education may provide detailed regulations relative to specific learning disabilities, including the development of a more precise federal definition, and the prescription of procedures for monitoring of said regulations by the Commissioner. If the authorizing committees of the House and Senate do not disapprove the Commissioner's regulations, then the ceiling will be removed. That issue had not been resolved as this document went to press. (Refer to Section 611(a)(5)(A)(ii) of the Act.)

What is the current federal definition of such children?

The Act defines "children with specific learning disabilities" as

> those children who have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which disorder may manifest itself in imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations. Such disorders include such conditions as perceptual handicaps, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Such term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, or environmental, cultural or economic disadvantage. (Section 5(b)(4) of P.L. 94-142)

It is most important to take note of the prohibition against environmental, cultural or economic disadvantage—because of the wide ranging implications with respect to the larger population of children who are not handicapped, but have an educational disadvantage. Furthermore, in the area of emotional disturbance, children who are "socially maladjusted" but not emotionally disturbed may not be included in that category.

Can a handicapped child whose special education is being provided totally by the federal government be counted for purposes of the P.L. 94-142 formula?

The governing principle is this: a child may only be counted if his or her special education and related services are provided by state and local public agencies. Therefore, children whose special education is paid for solely by the federal government, such as many American Indian children as well as many children on military bases, cannot be counted for purposes of the formula. There is one exception: if such children are in the age groups of 3 through 5 and 18 through 21, they may be counted if there are no local or state funds available for nonhandicapped children in that age group. (Refer to commentary in appendices of P.L. 94-142 regulations.)

Can a handicapped child in a parochial school be counted for purposes of the P.L. 94-142 formula?

Yes, providing his/her special education and related services are paid for totally by state and/or local public agencies. (Refer to commentary in appendices of P.L. 94-142 regulations.)

What is the intrastate funding arrangement?

P.L. 94-142 contains a substantial pass through to the local school districts. In the first year of the new formula, 50% of the monies going to each state would be allocated to the state education agency, and 50% would be allocated to the local education agencies. In the following year, fiscal 1979, the local education agency entitlement would be enlarged to 75% of the total allocation to a given state, with the state education agency retaining 25%. This 75-25 arrangement commencing in fiscal 1979 becomes the permanent distribution arrangement. (Refer to Section 611(b) and (c) of the Act.) (See Appendix for chart on timetable.)

May the state education agency reserve money for administrative purposes?

The state education agency is permitted to reserve to itself from the total allotment to the state under this Act—in any given year—5% or $200,000, whichever is greater, to support its administrative responsibilities. This administrative reserve must be taken from the overall state education agency allotment, i.e. from the 50% state education agency allocation in fiscal 1978, and from the 25% state education agency allocation of fiscal 1979 and thereafter. (Refer to Section 611(b) and (c) of the Act.)

Is attention given to American Indian handicapped children on the reservations?

Not more than 1% of the funds under this program may be reserved for the special education of handicapped children on reservations in elementary and secondary schools operated by the Department of the Interior, Bureau of Indian Affairs. The Department of the Interior has both state plan and local application responsibilities consequent to the unique character of this educational jurisdiction. (Refer to Section 611(f) of the Act.)

When are children counted for purposes of the federal funding formula?

The number of handicapped children receiving special education and related services in a state is determined by averaging the number of such children counted on October 1 and February 1 of the fiscal year preceding the fiscal year in which the appropriation will occur. (Refer to Section 611(a)(3) of the Act.)

Who may benefit from the monies under the Act?

P.L. 94-142 stipulates that all handicapped children as defined in the Act aged 0 to 21 years, may enjoy the special education and related services provided through this measure. There is also provision for the use of federal monies for programs of early identification and screening.

Are there priorities in expenditure of funds?

Any given state participating must have established priorities for providing a free, appropriate public education in the following manner:

- First priority to children who are not receiving an education.
- Second priority to children inadequately served with the most severe handicaps (within each disability).

Correspondingly, there must be a priority in the expenditure of federal dollars received under this Act that conforms to those same priorities. Moreover, these priorities must be adhered to by both the state education agency and its local education agencies. (Refer to Section 612(3) and Section 614(a)(1)(C) of the Act and refer to §121a.320 of the P.L. 94-142 regulations.)

Is there a prohibition against supplanting?

In the use of the federal dollars generated under this formula, both the state agency and the local education agencies must maintain their own expenditure levels. In other words, they may not supplant state and local dollars with federal dollars.

However, if the state agency provides convincing evidence to the US Commissioner that the state is making available a free, appropriate public education to all handicapped children within the state, and if the US Commissioner certifies that declaration, then the US Commissioner may waive the nonsupplanting provision in whole or in part. (Refer to Section 613(a)(9)(B) of the Act and refer to §121a.230 of the P.L. 94-142 regulations.)

Is there a comparability provision?

The Act requires that state and local funds be used in the jurisdiction of the local education agency or intermediate education unit to provide services in program areas which, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction which are not receiving funds under this Act. This requirement will in effect be complied with if one is in compliance with the "excess cost" requirement.

How may the local school districts spend their P.L. 94-142 dollars?

The local pass through is clearly intended to establish a federal partnership in the local special education budget, but with the federal contribution constituting the "excess cost" (additional cost) factor in that partnership. P.L. 94-142 provides that federal monies must be spent only for the "excess cost" of educating handicapped children. A given school district must determine its average annual per pupil expenditure for all children being served, and then apply the federal dollars only as additional dollars for handicapped children beyond the average annual per pupil expenditure. Thus, the school district must demonstrate that it is spending at least the average annual per pupil expenditure on each of its handicapped children. (Refer to Section 614(a)(1) of the Act and refer to §121a.184 of the P.L. 94-142 regulations.)

With respect to utilization of the local school district entitlement, may a handicapped child's entire educational program be paid for under P.L. 94-142?

No. The "excess cost" provision prohibits such a financial arrangement. This prohibition, however, does not apply to programs for children aged 3 through 5 and 18 through 21.

How may the state education agencies spend their P.L. 94-142 dollars?

The state education agencies are not subject to the "excess cost" constraint and appear to have considerable latitude in expenditure of their portion of the overall entitlement, with permission to spend for both "direct and support" purposes. For instance, it is clear that the state can spend its portion for inservice training of personnel and statewide programs of on going child find. It would appear that the state can use their setaside even for paying some of the costs attendant to maintenance of procedural safeguards (without being restricted to using only the administrative setaside).

However, the state education agency is required to match its allocation, on a "program basis" (major components, such as personnel development), but is not required to match with new monies. (This is commonly referred to as a "phantom match.") (Refer to Section 611(c)(a)(B) of the Act.)

Is there a special incentive in P.L. 94-142 for the development of preschool programs?

P.L. 94-142 carries a special incentive grant aimed at encouraging the states to provide special education and related services to their preschool handicapped children. Each handicapped child in the state aged 3 through 5 who is counted as served will generate a special $300 entitlement. The formula may be simply expressed in the following way:

$300	X	NHC	=	PIGF
		Number of handicapped children aged 3 to 5		Preschool incentive grant funds to the state

It should be noted that this incentive entitlement goes to the state education agency and must be used by the state education agency to provide further preschool services. Additionally, this entitlement requires a separate "line item" appropriation, independent of the larger P.L. 94-142 appropriation.

Final figures from the 57 state education jurisdictions indicated that the first averaged count (school year 1976-1977) of handicapped children aged 3 through 5 receiving preschool services for purposes of this entitlement was approximately 200,000 children, thus generating an authorization ceiling of $60 million. (Refer to Section 619 of the Act.)

Can children ages 0 through 2 participate under the preschool incentive grant program?

No. However, they may participate under the larger P.L. 94-142 program.

For further information with respect to fiscal considerations, the reader is referred to the following resource available from The Council for Exceptional Children: *Financing Educational Services for the Handicapped.* Charles D. Bernstein, William T. Hartman, Michael W. Kirst, Rudolph S. Marshall. Review of state practices and latest research in financing of special education services. $4.95.

MANAGEMENT

What are the overall management responsibilities established by P.L. 94-142?

P.L. 94-142 is administered through a series of interlocking responsibilities among local education agencies, state education agencies, and the US Commissioner of Education.

Two documents are at the core of this administrative interaction: the state plan and the local education agency application. The US Commissioner may not allocate funds under this Act to a state until he has approved the state plan. Correspondingly, the state education agency may not allow a local education agency's entitlement to flow through to the locality until it has approved the local application. Both the state plan and the local applications are composed of three major ingredients: certain assurances, a detailing of certain procedures, and a detailed resource plan.

1. *"Certain assurances"*:
   Both the state plan and the local applications must, for instance, include a guarantee of all of the rights and protections for children and their parents or guardians as discussed previously in this document.
2. *"A detailing of certain procedures"*:
   The state plan must, for instance, include a comprehensive blueprint for personnel development and procedures for active, on going child find. The local applications must likewise demonstrate how they are going to achieve such basic requirements. (Refer to Section 612(2)(c) and Section 613(a)(3) of the Act.)
3. *"A detailed resource plan"*:
   Finally, the state plan, and to the degree appropriate—the local applications—must include a description of the kind and number of facilities, personnel, and ser-

vices required to reach and maintain full service for all handicapped children. (Refer to Section 612(2)(A) and Section 614(a)(1)(E) of the Act.)

Is there a general rule of thumb with regard to local education agency application?

Yes. The local application must conform in all respects to the overall state blueprint as presented in the state plan. (Refer to Section 614(a)(5) of the Act.)

Is this state plan requirement something new?

No. State education agencies have been required to submit state plans in the area of education of handicapped children to the US Commissioner of Education for a number of years.

Are the state plan and the local applications public documents?

Yes, and both must be made available to parents and other interested parties upon request. Furthermore, the state plan must be made available to the general public at least 30 days before submission to the US Commissioner. Comments must be received and responded to by the state education agency. (Refer to Section 612(7) and Section 614(a)(4) of the Act.)

Is there a manpower development requirement in P.L. 94-142?

Yes. As previously noted in "a detailing of certain procedures," P.L. 94-142 requires that the states and the local school districts engage in comprehensive manpower development toward the achievement of full educational opportunity for all handicapped children, both inservice and preservice. Readers are encouraged to carefully study sections §121a.380 through §121a.387 of the P.L. 94-142 regulations.

May P.L. 94-142 dollars be utilized for manpower development?

Yes, but for inservice training only; expenditure for preservice is prohibited. Moreover, inservice expenditures may occur only within the constraints imposed by the overall statutory priorities in the use of P.L. 94-142 funds.

Are there other federal dollars available for special education personnel development?

Yes. Part D of the federal Education of the Handicapped Act (P.L. 94-142 is Part B of that Act) authorizes an on going program for personnel development, both preservice and inservice. The funding authority for that component in fiscal 1978 (not actual appropriations) is $75 million.

Does P.L. 94-142 require efforts to locate handicapped children who require special education?

Yes. As previously noted in "a detailing of certain procedures," P.L. 94-142 requires the states and the local school districts to engage in active, on going child find within the age range of 0 through 21. Section 504 carries an identical stipulation.

Are conditions attached to the local pass through of funds?

Though P.L. 94-142 authorizes a substantial local entitlement, there are numerous "strings attached." The state education agency must refuse to pass through federal monies generated when:

- The school district does not conform to the overall state plan requirements contained in this Act and in existing law (such as "full service" goal, confidentiality, etc.).
- The school district fails to meet the local application requirements.
- The state deems the local district unable to make effective use of its entitlement unless it consolidates its entitlement with the entitlement of one or more other school districts (thus allowing great flexibility in funding arrangements).
- The program for handicapped children within the school district is of insufficient size and scope.
- The school district is adequately providing a free appropriate public education for all handicapped children with state and local funds. (This provision is permissive. The state education agency does not have to do so.)
- The state determines that one or more children in a local school district can best be served by a regional or state center.

Furthermore, P.L. 94-142 establishes a flat monetary minimum. If a school district, after counting all of its handicapped children served, cannot generate an allocation for itself of at least $7,500, a pass through to that school district does not occur. This provision is, of course, also aimed at encouraging various sorts of special education consortia in order to make meaningful use of the federal dollars. However, this $7,500 minimum does not apply in the first year under the new formula (school year 1977-78). (Refer to Section 614(b)(c)(d)(e) and (f) and Section 611(c)(4)(A)(i) of the Act.)

May a local education agency refuse to submit a local application and therefore circumvent guaranteeing the rights and protections of the Act?

Yes, but as a result it becomes the state's responsibility to assure these rights and protections for the handicapped school children of the said district. Subsequently, such a local school district also remains subject to compliance with Section 504.

What is an intermediate education unit?

Provision is made in the Act for a type of educational unit larger than the local education agency. An intermediate educational unit is defined as a public authority established by state law to provide free public education on a regional basis to handicapped children.

Such an intermediate educational unit, when so determined by the state education agency, may have all of the rights and responsibilities of a local education agency under this Act and may receive a federal entitlement. (Refer to Section 614(c)(2)(C) of the Act.)

For the purposes of P.L. 94-142, what is the relation of the state education agency to other state agencies?

P.L. 94-142 requires that the state education agency be responsible for ensuring that all requirements of the Act are carried out. Moreover, all education programs within the state for all handicapped children, including such programs administered by any other state or local agency, must meet state educational agency standards and be under the general supervision of the state education agency. This provision establishes a single line of responsibility within one state agency for the education of all handicapped children within each state. (Refer to Section 612(6) of the Act and refer to §121a.600 of the P.L. 94-142 regulations.)

What is the basic relationship between P.L. 94-142 and P.L. 89-313?

Children counted for purposes of generating an entitlement under P.L. 94-142 may not concurrently be counted under the formula for P.L. 89-313, the program of supplemental educational services for handicapped children in state operated or supported facilities. However, monies under this Act and monies under P.L. 89-313 may be programatically mingled with each other where the target populations of these two authorities intersect.

Regardless of whether the children counted under P.L. 89-313 enjoy the fiscal benefits of P.L. 94-142, all of the rights and protections of P.L. 94-142 must apply to these children as well. (Refer to Section 611(a)(5)(A)(iii) of the Act.)

Does P.L. 94-142 require advisory panels?

P.L. 94-142 mandates that each state shall have an advisory panel to be appointed by the Governor or any other official authorized under state law to make such appointments. This panel must be composed of individuals involved in or concerned with the education of handicapped children, including handicapped individuals, teachers, parents or guardians of handicapped children, state and local education officials, and administrators of programs for handicapped children.

The panel shall have the following duties:

- Advise the state education agency on unmet needs relative to the education of all handicapped children within the state.
- Comment publicly on rules and regulations issued by the state and procedures proposed by the state for distribution of funds.
- Assist the state in developing and reporting such data and evaluations as may assist the US Commissioner. (Refer to Section 613(a)(12) of the Act.)

How is P.L. 94-142 enforced?

Essentially, the US Commissioner must engage in whatever monitoring and evaluation procedures may be required to achieve enforcement state by state. The state education agency, in turn, is required to do the same with respect to its local and intermediate education agencies. Undoubtedly, the Act is very complaint oriented, and enforcement will depend heavily on the vigilance of parents and other advocates.

Are there sanctions for failure to comply with P.L. 94-142?

The state education agency must cut off the flow through to a local education agency if it does not conform to its own local application. Correspondingly, the US Commissioner must cut off funds to the state education agency if that agency is in substantial noncompliance with its own state plan. Moreover, the US Commissioner may order the state education agency to cut off the flow through to a school district if the Commissioner evidences substantial noncompliance by a school district. (Refer to Section 616 of the Act in its entirety.) In such instances, the US Commissioner may also cut off funding for those programs specifically designed for handicapped children under the following titles:

- Part A of Title I of the Elementary and Secondary Education Act.
- Title III of the Elementary and Secondary Education Act (innovative programs) and its successor, Part C, Educational Innovation and Support, Section 431 of P.L. 93-380.
- The Vocational Education Act.

(Refer to Section 616(a)(B) and Section 613(a)(2) of the Act.)

Are there sanctions for failure to comply with Section 504?

Yes. The US Secretary of Health, Education, and Welfare has the authority to cut off *all* HEW funds going to a state or a locality when the Secretary makes a judgment of noncompliance with Section 504.

Must efforts be made to employ handicapped individuals?

Both the state education agency and the local education agencies receiving funds under this Act must make positive efforts to employ and advance in employment qualified handicapped individuals. (Refer to Section 606 of the Act and also Section 503 of P.L. 93-112.)

Does P.L. 94-142 address the issue of architectural barriers within school facilities?

P.L. 94-142 authorizes such sums as may be necessary for the US Commissioner to award grants to pay all or part of the cost of altering existing buildings and equipment to eliminate architectural barriers in educational facilities. Such provision is aimed at assuring certain handicapped children an appropriate public education in the least restrictive environment. As in the case of the previous heading on the preschool incentive, however, the actual money for this component must be separately appropriated by the Congress. (Refer to Section 607 of the Act.)

What does the Section 504 regulation say with respect to architectural barriers in school systems?

One of the principal objectives of Section 504 is termination of discriminatory program inaccessibility for handicapped children in the public schools—handicapped children in both regular and special education programs.

A crucial distinction must be made here: Section 504 does not order totally architecturally barrier free school facilities. Section 504 does order full program accessibility.

Therefore, as of June 1, 1977:

- All new facilities must be constructed so as to be readily accessible and usable from a program standpoint by all handicapped children.
- Although every existing facility need not be totally physically accessible, there must be an assurance that programs conducted in those facilities are made accessible.
- While flexibility is allowed in choosing methods that in fact make programs in existing facilities accessible, structural changes in such facilities must be undertaken if no other means of assuring program accessibility is available. The regulations state that such structural changes shall be made "expeditiously," but shall be completed no later than three years from the effective date of June 1, 1977. (Refer to entire Subpart C of the 504 regulations.)

Does P.L. 94-142 contain data gathering requirements?

The US Commissioner is required to provide to the Congress and the public at least annually—and is required to update annually—data and information on the educational status of the nation's handicapped children, such as the number of children served and unserved within each disability, the kinds and number of educational personnel employed, etc. (Refer to Section 613(b) of the Act.)

What national evaluations are mandated by P.L. 94-142?

The US Commissioner must evaluate the impact of this Act on an annual basis and provide a full report to the Congress not later than 120 days after the close of each fiscal year.
That annual evaluation shall include the following segments:

- An analysis and evaluation of the effectiveness of procedures undertaken to assure that handicapped children receive special education and related services in the least restrictive environment commensurate with their needs.
- An analysis and evaluation of the effectiveness of procedures to improve programs of instruction for handicapped children in day or residential facilities.
- An evaluation of the effectiveness of procedures undertaken to prevent the erroneous classification of children.
- Recommendations for changes in P.L. 94-142 and any other federal law providing support for the education of handicapped children.

Finally, P.L. 94-142 stipulates that, in order to carry out these specific analyses and evaluations, the US Commissioner shall conduct a statistically valid survey for assessing the effectiveness of individualized education programs. (Refer to Section 613(d) of the Act.)

How long will P.L. 94-142 be in force?

P.L. 94-142 carries the rather unique characteristic of being a permanent statutory authority with no expiration date.

For further information with respect to full implementation of both P.L. 94-142 and Section 504, the reader is referred to the following resources available from The Council for Exceptional Children:

- *P.L. 94-142 The Education for All Handicapped Children Act of 1975* by Joseph Ballard, Jean N. Nazzaro, and Frederick J. Weintraub (Multimedia package), 1976, Stock No. 136, $50.00
- *P.L. 94-142 Implementing Procedural Safeguards—A Guide for Schools and Parents*, produced by CEC in conjunction with The Children's Television Workshop (multimedia package), 1977, Stock No. 167, $90.00
- *Special Education Administrative Policies Manual* by Scottie Torres, 1977, 175 pp., Stock No. 164, $27.50
- *Training Institutes*
  Training institutes for staff development and in-service training are available from CEC to local school districts, state departments, colleges or universities, professional organizations and any other agency desiring training. Agencies may negotiate with CEC to offer training to their specific constituency on the date and at the location of their choice. Currently, institutes are available in the areas of *Delivery of Services, Early Childhood Education*, and *Individualized Education Program Planning*. Among specific topics are Child Identification, Nondiscriminatory Testing, Developing and Implementing IEP Objectives, Preschool Gifted and Handicapped, and Language Development in Young Children. For more information and complete information on all institutes, contact the CEC Conventions Unit, 800-336-3728.

NOTES

To obtain a copy of P.L. 94-142, write to your member of the US House of Representatives, or to one of your US Senators.
To obtain a copy of the final regulations for P.L. 94-142, get a copy of the *Federal Register* for Tuesday, August 23, 1977.
To obtain a copy of the final regulations for Section 504 of P.L. 93-112, get a copy of the *Federal Register* for Wednesday, May 4, 1977.

PUBLIC LAW 94-142
TIMETABLE

Fiscal Year	Funding Timetable		Service Timetable
1978 (10/1/77 to 9/30/78)	*October 1:* The first allocation will be made according to the primary funding formula, using 5% of the national average expenditure per pupil (NAE).	*October 1:* 50% of the funds allocated to states must go directly to eligible local and intermediate education agencies (LEA, IEA). The remaining 50% of the funds may be used by the state (SEA).	Substantive provisions, such as SEA "general supervision" and further modifications from P.L. 93-380 of procedural safeguards mechanism, take effect. Individual education programs must be developed for all handicapped children in the state, regardless of the public agency (agencies) delivering the educational program.
1979 (10/1/78 to 9/30/79)	*October 1:* The funding formula uses 10% NAE.	*October 1:* 75% of the funds allocated to states must go directly to eligible local and intermediate agencies (LEA, IEA). The remaining 25% of the funds may be used by the state. For each year thereafter this same percentage is used.	*Commencing September 1, 1978:* A free, appropriate public education must be available for all handicapped children, ages 3 to 18 if the given state is to continue receiving P.L. 94-142 funds.
1980 (10/1/79 to 9/30/80)	*October 1:* The funding formula uses 30% NAE.		*Commencing September 1, 1980:* A free, appropriate public education must be available for all handicapped children, ages 3 to 21 if a given state is to continue receiving P.L. 94-142 funds.
1981 (10/1/80 to 9/30/81)	*October 1:* The funding formula uses 20% NAE.		
1982 (10/1/81 to 9/30/82)	*October 1:* The funding formula uses 40% NAE. This is the final funding increase.		

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_____ No. 123 Public Policy and the Education of Exceptional Children @ $13.95	see page 6
_____ No. 136 P.L. 94-142 The Education for All Handicapped Children (multimedia package) @ $50	see page 12
_____ No. 164 Special Education Administrative Policies Manual @ $27.50	see page 12
_____ No. 167 P.L. 94-142 Implementing Procedural Safeguards—A Guide for Schools and Parents @ $90	see page 12

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